

REGULAR MEETING
BOROUGH COUNCIL
BOROUGH OF RUMSON
January 29, 2013

A regular meeting of the Borough Council of the Borough of Rumson was held in the Charles S. Callman Courtroom of the Memorial Borough Hall on January 29, 2013 and was called to order by Mayor John E. Ekdahl at 7:30 p.m.

Pledge of Allegiance.

Present: Mayor Ekdahl, Councilmen Day, Hemphill, Rubin and Shanley.

Absent: Councilwoman DeVoe and Councilman Broderick.

Thomas S. Rogers, Municipal Clerk/Administrator, was present.

Martin M. Barger, Borough Attorney, was present.

David Marks of T & M Associates was present.

The Mayor declared a quorum present and announced that the notice requirements of the Open Public Meetings Act had been met by the posting and mailing of a schedule of all regular and work meetings of the Borough Council for the year 2013 to the *Asbury Park Press* and the *Two River Times*.

COMMUNICATIONS:

LETTER FROM MERIDIAN HEALTH REQUESTING PERMISSION TO HANG A BANNER IN THE RUMSON DOWNTOWN AREA FROM APRIL 29TH UNTIL JUNE 4TH TO ADVERTISE THEIR MONTH-LONG “PAINT THE TOWN PINK” EVENT FOR BREAST CANCER AWARENESS DURING THE MONTH OF MAY AGAIN THIS YEAR:

The Municipal Clerk/Administrator advised of a letter dated January 28, 2013 from Tom Paoella, Public Relations Manager of Riverview Medical Center and Bayshore Community Hospital, advising of May 2013 being designated as “Paint the Town Pink” to heighten awareness of breast cancer and requesting permission to hang a banner in the Rumson downtown district from April 29th until June 4th to advertise the event.

The Municipal Clerk/Administrator stated that we were not provided with many details for this request and suggested that the banner be placed on the tennis court fence at Victory Park.

On motion by Councilman Hemphill, seconded by Councilman Shanley, this communication was ordered received and permission for the “Paint the Town Pink” banner to be hung on the tennis court fence at Victory Park was granted. All in favor.

LETTER FROM MASER CONSULTANTS, P.A. ON BEHALF OF ARTHUR PARENT SUBMITTED TO THE STATE D.E.P. FOR AN FHA VERIFICATION AND FHA INDIVIDUAL PERMIT FOR A HARDSHIP EXCEPTION FOR A PROPOSED DRIVEWAY AND UTILITY CROSSING ON PROPERTY LOCATED AT 16 RIDGE ROAD:

The Municipal Clerk/Administrator advised of a letter dated January 17, 2013 from Maser Consultants, P.A. on behalf of Arthur Parent. The letter advised of an application submitted to the New Jersey Department of Environmental Protection, Land Use Regulation Program for Flood Hazard Area Individual Permit and Hardship Exception for a proposed driveway and utility crossing on property located at 16 Ridge Road.

On motion by Councilman Rubin, seconded by Councilman Hemphill, this communication was ordered received. All in favor.

REQUEST TO PAINT A GREEN LINE DOWN THE CENTER OF RIVER ROAD FROM OCEANIC FIREHOUSE TO THE RUMSON FIREHOUSE, TO PLACE GREEN LIGHTS ON THE PINE TREE AT VICTORY PARK AND PLACE A BANNER ON THE TENNIS

**COURT FENCE AT VICTORY PARK FOR THE RUMSON ST. PATRICK’S DAY
PARADE ON MARCH 10, 2013:**

The Municipal Clerk/Administrator advised the Mayor and Council that he had received a call from the Rumson St. Patrick’s Day Parade Committee requesting permission to paint a green line down the center of River Road along the parade route from Oceanic Firehouse to Rumson Firehouse using water soluble paint (not permanent paint that others had used in the past) for the Rumson St. Patrick’s Day Parade scheduled for Sunday, March 10, 2013. The Committee had also requested permission to place green lights on the pine tree at Victory Park and hang a banner on the Victory Park tennis court fence. He stated the request letter had not arrived prior to this meeting and he wanted to present it to the Council for approval because the next meeting was not for two weeks.

On motion by Councilman Rubin, seconded by Councilman Hemphill, this communication was ordered received and permission for the green line, tree lights and banner for the St. Patrick’s Day Parade was granted. All in favor.

COMMITTEE REPORTS:

None.

UNFINISHED BUSINESS:

None.

NEW BUSINESS:

**RESOLUTION 2013-0129-33 AUTHORIZING THE BOROUGH’S CASH MANAGEMENT
PLAN:**

2013-0129-33

**RESOLUTION ADOPTING CASH MANAGEMENT PLAN
OF THE BOROUGH OF RUMSON
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

WHEREAS, NJSA 40A:5-14 of the Local Fiscal Affairs Law requires that every local unit shall adopt a “Cash Management Plan” and shall deposit in an interest bearing account, all available public funds pursuant to the plan;

NOW, THEREFORE, BE IT RESOLVED that the Borough of Rumson, hereby adopts the following “Cash Management Plan” policy to be utilized by the Borough of Rumson for the year 2013; and

BE IT FURTHER RESOLVED that certified copies of this resolution shall be filed with the Director of the Division of Local Government Services, Borough Auditor, and Chief Financial Officer of the Borough of Rumson (Monmouth County).

**CASH MANAGEMENT PLAN OF THE BOROUGH OF RUMSON,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

I. STATEMENT OF PURPOSE

This Cash Management Plan (the “Plan”) is prepared pursuant to the provisions of N.J.S.A. 40A: 5-14 in order to set forth the basis of deposits (“Deposits”) and investment (“Permitted Investments”) of certain public funds of the Borough of Rumson, pending the use of such funds for the intended purposes. The Plan is intended to assure that all public funds identified herein are deposited in interest bearing Deposits or otherwise invested in Permitted Investments herein after referred to. The intent of the plan is to provide that the decisions made with regard to the Deposits and the Permitted Investments will be done to insure the safety, the liquidity, (regarding its availability for the intended purposes), and the maximum investment return within such limits. The plan is intended to insure that any Deposit or Permitted Investment matures within the time period that approximates the prospective need for the funds deposited or invested so that there is not a risk to the market value of such Deposits or Permitted Investments.

II. DEFINITIONS

“Arbitrage” refers to the rules and regulations governing the issuance of bonds or notes and the reinvestment of the proceeds at higher yield. These regulations are promulgated by the Internal Revenue Service, Regulation 1.103.

“Certificate of Eligibility” is the certification issued by the New Jersey Department of Banking and Insurance, Division of Banking, that a Public Depository is eligible to act as a depository for public funds and qualifies as a participant in the New Jersey Governmental Unit Deposit Protection Act, GUDPA.

“GUDPA” requires a bank that accepts public funds to be a public depository. A “Public Depository” is defined as a state bank, a national bank, a savings bank or association which is located in the State of New Jersey, the deposits of which are insured by the Federal Deposit Insurance Corporation, and which received or holds public funds on deposit. A local unit may make deposits in, or purchase certificates of deposit from, banks which are located in New Jersey and which meet the requirements of the “GUDPA”.

“The New Jersey Cash Management Fund.” The New Jersey Division of Investment is authorized pursuant to N.J.S.A. 52-18A-90.4 to establish, maintain and operate, with the approval of the State Investment Council and the State Treasurer, a common trust fund known as the State of New Jersey-New Jersey Cash Management Fund (the “Fund”). The Fund is authorized to accept deposits from all Local Units of government. The Fund is a “common trust” fund pursuant to the statute that created such funds within the jurisdiction of the Division of Investment. According to the enabling legislation, monies of Local Units deposited in the Fund must be invested in obligations and bonds that meet the investment requirements of the statute. These obligations include, among other things, evidences of indebtedness of U.S. corporations. These obligations are less secure than those permitted to Local Units under the Act. Thus, the Fund is riskier than direct investments in federal securities or GUDPA protected deposits by Local Units.

III. IDENTIFICATION OF FUNDS AND ACCOUNTS TO BE COVERED BY THE PLAN

- A) The Plan is intended to cover the deposit and/or investment of the following funds and accounts of the Borough of Rumson:

Current Fund
Grant Fund
All Trust Funds
Capital Funds
Bond & Interest Fund

- B) The Plan is not intended to cover the deposit and/or investment of the following Funds and Accounts of the Borough of Rumson

1. Petty Cash/Change Funds
2. Cash drawn from a Federal Agency under a letter of credit which cash has to be paid out within 5 working days to a vendor.
3. Deposit, retainage, or amounts posted by way of bond, held by the Borough for such things as faithful performance, if the Borough would be required by Jaw to pay back any interest earned to the provider of the deposit, except where the Borough is required by law or court decision to invest the fund.
4. Amounts derived from the sale of bonds or notes, only to the extent that a specific written opinion of counsel states that the earning of (full) interest would result in the bonds or notes being classified as an arbitrage (not Federally Tax Exempt) issue pursuant to federal regulations. To the extent that some interest is allowable, it shall be deposited at the most favorable rate obtainable.

IV. DESIGNATION OF OFFICIALS OF THE BOROUGH OF RUMSON
AUTHORIZED TO MAKE DEPOSITS AND INVESTMENTS

The Chief Financial Officer, (The “Designated Official”) is hereby authorized and directed to deposit and/or invest the Funds referred to in the plan.

V. STANDARDS OF CARE

1. The Designated Officials involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
2. The Designated Officials shall disclose any material interests in the financial institutions with which business is conducted and they shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the Borough of Rumson.
3. The Chief Financial Officer, under the direction of the Borough Administrator, is responsible for establishing and maintaining internal control. The controls should ensure that the assets of the Borough are protected from loss, theft, or misuse.

VI. PROCEDURES FOR THE RECEIPT OF MONIES

A) Department Procedures

1. A receipt shall be issued in duplicate for all transactions involving the receipt of cash. A copy of the receipt shall be given to the paying party and the duplicate shall be maintained by the receiving department. All payments and receipts must be recorded.
2. All monies collected or received from any source by or on behalf of the Borough shall be forwarded to the Finance Department to be deposited within forty eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A : 5-15.
3. All monies received shall be placed in a secured place until forwarded for deposit.
4. No department, division or agency shall engage in the practice of cashing checks with public funds. Cashing of employee pay checks is prohibited.

B) Chief Financial Officer (Designated Official)

1. The Chief Financial Officer shall:
 - a. Deposit all monies collected or received from any source by or on behalf of the Borough within forty eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A: 5-15.
 - b. Ensure that all monies deposited are in interest bearing accounts.
 - c. Make recommendations of legal public depositories to the Borough Council who shall by resolution designate said depositories at the first meeting of the calendar year.
 - d. Ensure that each of the various accounts for which there is a separate bank statement is reconciled with that bank statement by the end of the following month.
 - e. Verify that designated official depositories submit to the Chief Financial Officer a copy of the State of New Jersey, Department of Banking and Insurance, Governmental Unit Deposit Protection Act notification of Certificate of Eligibility, which must be filed

semi-annually in the Department of Banking as of June 30* and December 31st of each year.

VII. DESIGNATION OF DEPOSITORIES

The Borough Council authorized resolution #2013-0101-8 on January 1, 2013 which designated the following banks and financial institutions as official depositories for the Deposit of all public funds referred to in the Plan, including any certificates of Deposits which are not otherwise invested in “Permitted Investments as provided for in this Plan”.

TWO RIVER COMMUNITY BANK
RUMSON-FAIR HAVEN BANK
BANK OF AMERICA
PNC
WELLS FARGO
TD BANK
INVESTORS SAVINGS BANK
VALLEY NATIONAL BANK
NEW JERSEY CASH MANAGEMENT FUND
NEW JERSEY ASSET AND REBATE MANAGEMENT PROGRAM

VIII. AUTHORIZED INVESTMENTS

Except as otherwise specifically provided for herein, the Designated Official is hereby authorized to invest the public funds covered by this Plan, to the extent not otherwise held in Deposits, in the following Permitted Investments

1. Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America
2. Government Money Market Mutual Funds
3. Any Obligations that a Federal Agency or a Federal Instrumentality has issued in accordance with an Act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor.
4. Bonds or other obligations of the Local Unit or bonds or other obligations of school districts of which the Local Unit is a part or within which the school district is located.
5. Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by Local Units.
6. Local Government Investment pools.
7. Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L. 1977, c. 281 (C.52:18A-90.4) or
8. Agreements for the repurchase of fully collateralized securities if:
 - a. The underlying securities are permitted investments pursuant to paragraphs 1” and “3” of this subsection a;
 - b. The custody of collateral is transferred to a third party;
 - c. The maturity of the agreement is not more than 30 days;
 - d. The underlying securities are purchased through a public depository as defined in section 1 of P.L. 1970, c.236 (c. 17:9-41); and
 - e. A master repurchase agreement providing for the custody and security of collateral is executed.

For purposes of the above language, the terms “Government Money Market Mutual Fund” and “Local Government Investment Pool” shall have the following definitions:

IX. GOVERNMENT MONEY MARKET MUTUAL FUND

An Investment company or Investment Trust:

- a. Which is registered with the Securities and Exchange Commission under the “Investment Company Act of 1940,” 15 U.S.C. Sec. 80a-1 et seq., and operated in accordance with 17 C.F.R. sec, 270. 2a-7.
- b. The portfolio of which is limited to U.S. Government securities that meet the definition of any eligible security pursuant to 17 C.F.R. sec. 270. 2a-7 and
- c. Repurchase agreements that are collateralized by such U.S. Government Securities; and
- d. Which has:
 - (i) Attained the highest ranking or the highest letter and numerical rating of a nationally recognized statistical rating organization; or
 - (ii) Retained an investment advisor registered or exempt from registration with the security and exchange commission pursuant to the “Investment Advisors Act of 1940,” is U.S.C. Sec 806-1 et seq., with experience investing in U.S. Government Securities for at least the most recent past 60 months and with assets under management in excess of \$500 million.

“Local Government Investment Pool”. An investment pool:

- a. Which is managed in accordance with 17 C.F.R. sec. 270.2a-7;
- b. Which is rated in the highest category by a nationally recognized statistical rating organization;
- c. Which is limited to U.S. Government securities that meet the definition of eligible security pursuant to 17 C.F.R. sec. 270.2a-7 and repurchase agreements that collateralized by such U.S. Government securities.
- d. Which is in compliance with rules adopted pursuant to the “Administrative Procedure Act,” P.L. 1968, c.410 (c.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments.
- e. Which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value; and
- f. Which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a National or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L. 1967 c.9 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in an borrowing on such U.S. Government securities.

X. SAFEKEEPING CUSTODY PAYMENT

To the extent that any Deposit or Permitted Investment involves a document or security which is not physically held by the Borough of Rumson, then such instrument or security shall be covered by all custodial agreements with an independent third party, which shall be a bank or financial institution in the State of New Jersey. Such institution shall provide for the

designation of funds or the Permitted Investments or Deposits. Purchase of any Permitted Investments that involve securities shall be executed by a “delivery versus payment” method to insure that such Permitted Investments are either received by the Borough of Rumson or by a third party custodian prior to or upon the release of the Borough of Rumson’s funds.

XI. REPORTING REQUIREMENTS

On the first day of each month during which this Plan is in effect, the Designated Officials referred to in Section IV hereof shall supply to the governing body of the Borough of Rumson a written report of any Deposits of Permitted Investments made pursuant to this Plan, which shall include, at a minimum, the following information:

- a. The name of any institution holding funds of the Borough of Rumson as a Deposit of a Permitted Investment.
- b. The amount of securities or Deposits purchased or sold during the immediately preceding month.
- c. The class or type of securities purchased or Deposits made.
- d. The book value of such Deposits or Permitted Investments.
- e. The earned income on such Deposits or Permitted Investments. To the extent that such amounts are actually earned at maturity, this report shall provide an accrual of such earnings during the immediately preceding month.
- f. The fees incurred to undertake such Deposits or Permitted Investments.
- g. The market value of all Deposits or Permitted Investments as of the end of the immediately preceding month.
- h. All other information which may be deemed reasonable from time to time by the governing body of the Borough of Rumson.

XII. BOROUGH AUDITOR

The Borough Investment practices (including compliance with N.J.S.A. 40A:5-14) and the agreement for banking services and compensation thereof shall be reviewed by the Borough Auditor as part of the annual audit, as required by N.J.S.A. 40A:5-4. Where a conflict exists between this Cash Management Plan and State Statute, the applicable State Statute shall apply.

XIII. SURETY BONDS

- a. The Chief Financial Officer and Treasurer shall be covered by surety bonds. During the annual audit, the Borough Auditor shall examine said bonds to determine that proper coverage has been obtained.
- b. Staff members of the Chief Financial Officer’s office, other than the Treasurer (See a. above), shall be covered by a public employee’s faithful performances bond in the minimum amount of \$10,000.

XIV. TERM OF PLAN

This Plan shall be in effect from January 1, 2013 to December 31, 2013. The Plan may be amended from time to time. To the extent that any amendment is adopted by the Council, the Designated Official is directed to supply copies of the amendments to all of the parties who otherwise have received the copy of the originally approved Plan, which amendment shall be acknowledged in writing in the same manner as the original Plan was so acknowledged.

The above Resolution was moved for adoption by Councilman Shanley. Motion seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESOLUTION 2013-0129-34 AUTHORIZING THE BOROUGH DECLARING ITS INTENT TO FULLY COMPLY WITH ITS MOUNT LAUREL OBLIGATIONS VOLUNTARILY AND SEEKING TO SECURE THE BENEFITS THAT OUR LAWS PROVIDE TO MUNICIPALITIES THAT COMMIT TO COMPLY VOLUNTARILY—PROTECTION FROM MOUNT LAUREL LAWSUITS:

2013-0129-34

RESOLUTION OF THE BOROUGH OF RUMSON, COUNTY OF MONMOUTH, DECLARING ITS INTENT TO FULLY COMPLY WITH ITS MOUNT LAUREL OBLIGATIONS VOLUNTARILY AND SEEKING TO SECURE THE BENEFITS THAT OUR LAWS PROVIDE TO MUNICIPALITIES THAT COMMIT TO COMPLY VOLUNTARILY—PROTECTION FROM MOUNT LAUREL LAWSUITS.

WHEREAS, in Southern Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”), the New Jersey Supreme Court emphasized its desire to promote voluntary compliance by municipalities: “[o]ur rulings today have several purposes. First, we intend to encourage voluntary compliance with the constitutional obligation. . . .;” and

WHEREAS, based upon the Supreme Court’s desire to promote voluntary compliance, Judge Serpentelli devised the doctrine of “temporary immunity” to enable municipalities to achieve compliance under the protection of any immunity order free from the costs, burdens and distractions of builder’s remedy lawsuits; and

WHEREAS, the doctrine of temporary immunity enables municipalities to devote the public’s finite resources exclusively to compliance, and not litigation, in accordance with the Supreme Court’s desire to limit excessive litigation; and

WHEREAS, in Hills Dev. Co. v. Tp. of Bernards, 103 N.J. 1, 64 (1986) (“Mount Laurel III”), the New Jersey Supreme Court openly praised the three Mount Laurel trial judges, which included Judge Serpentelli, for their “innovative refinement of techniques for the process of litigation,” and temporary immunity constituted just such a refinement; and

WHEREAS, the Legislature enacted the New Jersey Fair Housing Act (“FHA”) in 1985 in response to a plethora of builder’s remedy suits precipitated by Mount Laurel II; and

WHEREAS, the Legislature in the FHA, like the Supreme Court in Mount Laurel II, sought to encourage voluntary compliance by providing a process by which municipalities could bring themselves into COAH’s jurisdiction and comply voluntarily under the protective umbrella of COAH’s jurisdiction free from the burdens of Mount Laurel lawsuits; and

WHEREAS, the Legislature clearly stated that it enacted the FHA to create an alternative to builder’s remedy litigation: “[T]he State’s preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder’s remedy as a method of achieving fair share housing.” See N.J.S.A. 52:27D-303; and

WHEREAS, on August 31, 2001, Judge Serpentelli had the opportunity to reevaluate the “doctrine of temporary immunity” following the enactment of the FHA in a case entitled, K. Hovnanian Shore Acquisitions, Inc. v. Township of Berkeley, Docket No OCN-L-1120-01; and

WHEREAS, in that case, the plaintiff-developer argued that the FHA extinguished the need for temporary immunity by creating a means by which municipalities could voluntarily comply through an administrative process; and

WHEREAS, Judge Serpentelli rejected this argument, even though the FHA had created an administrative alternative to voluntary compliance preferred by all three branches of government; and

WHEREAS, in an opinion entitled K. Hovnanian Shore Acquisitions v. Tp. of Berkeley, 2003 WL 23206281, (App. Div. Jul 01, 2003), the Appellate Division upheld Judge Serpentelli's ruling and declared that "voluntary compliance is preferred, should be encouraged, and that a builder's remedy action should be considered a remedy of last resort;" and

WHEREAS, trial judges have routinely used the doctrine of temporary immunity to protect municipalities that have expressed a commitment to comply voluntarily; and

WHEREAS, the doctrine can be easily molded to a problem that will arise if a developer prevails in pending appeal of a trial court decision dismissing its builder's remedy suit in a case entitled K. Hovnanian at Cedar Grove IV, LLC v. Tp. of Cedar Grove, et. al., Appellate Division Docket No. A-425-12T3; and

WHEREAS, this case arose out of a trial judge's decision to dismiss the Hovnanian builder's remedy lawsuit and require it to exhaust its administrative remedies with COAH pursuant to the FHA because Cedar Grove had previously brought itself under the protective umbrella of COAH's jurisdiction; and

WHEREAS, Hovnanian is appealing the dismissal of its lawsuit based upon the argument that it should be relieved of its duty to exhaust its administrative remedies because the remedy offered by the FHA is not "completely inadequate" and that seeking relief with COAH would be futile because COAH is a "defunct agency;" and

WHEREAS, despite Hovnanian's challenges, COAH cannot be reasonably attacked for failing to process petitions for substantive certification of round three affordable housing plans since the Appellate Division invalidated the regulations COAH had adopted to provide guidance and direction for round three compliance; and

WHEREAS, COAH also cannot be reasonably attacked for failing to grant partial certification to the rehabilitation and prior cycle components of a municipality's affordable housing plan because the FHA does not empower COAH to partially certify an affordable housing plan; and

WHEREAS, notwithstanding the foregoing, it is possible that the Appellate Division may find that COAH has failed to do its job, in which case the Court should (i) specify what COAH should be doing, (ii) give COAH an opportunity to comply with the Court's ruling, and (iii) give municipalities an opportunity to comply with whatever COAH may require; and

WHEREAS, notwithstanding the foregoing, Hovnanian argues that it should have a right to bring and maintain a builder's remedy in Court against Cedar Grove; and

WHEREAS, Hovnanian, if successful, could secure a ruling that would relieve developers from their obligation to exhaust their administrative remedies at COAH before bringing builder's remedy claims in court against the 315 municipalities that have adopted affordable housing plans for all three cycles, filed those plans with COAH, and petitioned COAH to approve same; and

WHEREAS, Rumson cannot control the outcome of the Cedar Grove litigation, but reemphasizes its commitment to comply voluntarily; and

WHEREAS, in this regard, Rumson, like 314 other municipalities, has already demonstrated its commitment to comply voluntarily by accepting the invitation created by the FHA to comply voluntarily under the protections of that Act; and

WHEREAS, Rumson has already spent its public resources to comply with its responsibilities in rounds I and II and even submitted multiple plans in an effort to comply with both sets of COAH's round three regulations; and

WHEREAS, in the future, Rumson wishes to devote the public's finite resources exclusively to complying voluntarily with (a) whatever regulations COAH may adopt pursuant to the pending Supreme Court's decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, Supreme Court Docket No. 67,126 and (b) whatever requirements the Appellate Division may require in the pending Cedar grove case; and

WHEREAS, said another way, Rumson does not wish to devote any of the public's finite resources to fending off Mount Laurel lawsuits; and

WHEREAS, Rumson's past conduct demonstrates the Borough's commitment to voluntary compliance; and

WHEREAS, Rumson remains committed to comply voluntarily with (a) whatever lawful regulations COAH may adopt pursuant to the Supreme Court's decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 and (b) whatever requirements the Appellate Division may require in the Cedar Grove case; and

WHEREAS, Rumson does not wish to find itself the victim of a Mount Laurel suit in the event that the Appellate Division relieves interested parties of their obligations to exhaust their administrative remedies under the FHA; and

WHEREAS, to place Special Mount Laurel counsel in a position to act swiftly to protect the Borough from Mount Laurel lawsuits in the event of an adverse ruling in the Cedar Grove case, the Borough wishes to authorize counsel to bring a declaratory relief action and to simultaneously seek an immunity order so that the Borough may comply with whatever reasonable requirements the trial judge may deem appropriate; and

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Borough of Rumson hereby declares its commitment (a) to satisfy its known affordable housing obligations to the extent it has not done so already, (b) to satisfy any new round three obligations COAH or other division of the state may assign and (c) to otherwise take such measures as the Courts or COAH may require.
2. The Borough hereby directs its Mount Laurel professionals to draft a declaratory complaint in accordance with applicable law.
3. In the event that the Appellate Division in the Cedar Grove matter rules that interested parties are free to bring Mount Laurel lawsuits against municipalities under COAH's jurisdiction without exhausting their administrative remedies under the FHA, the Borough directs its Mount Laurel professionals to immediately (1) file the declaratory action, (2) seek temporary immunity, effective the date of this resolution, from all Mount Laurel lawsuits without delay, and (3) to take whatever actions are reasonable and necessary to achieve a formal judgment of constitutional compliance by the Court.
4. This Resolution shall take effect immediately.

The above Resolution was moved for adoption by Councilman Hemphill. Motion seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESOLUTION 2013-0129-35 ESTABLISHING THE RATES OF COMPENSATION FOR OFF-DUTY RUMSON POLICE PERSONNEL FOR OUTSIDE EMPLOYMENT FOR 2013:

2013-0129-35

Councilman Rubin offered the following resolution and moved its adoption:

RESOLUTION
ESTABLISHING RATES OF COMPENSATION
FOR OUTSIDE EMPLOYMENT OF
RUMSON POLICE PERSONNEL

WHEREAS, an Ordinance entitled Chapter II, Administration, has been adopted following public hearing; and

WHEREAS, Section 2-11.17 of said Ordinance provides that a Resolution be adopted to establish the rates of compensation for outside employment of off-duty Rumson Police personnel; and

WHEREAS, it is the intention of the Mayor and Council to fix the rates of compensation for outside employment of off-duty Rumson Police personnel; and

WHEREAS, it is the intention of the Mayor and Council to set the Administrative Fee for 2013;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rumson that the rates of compensation of off-duty Rumson Police personnel for outside employment are hereby fixed for calendar year 2013 as follows:

- (1) Any school-related function, with the exception of traffic control services, and sporting events, are to be billed at a rate of forty dollars (\$40.00) per hour per officer [minimum of two (2) hours]. Outdoor sports are to be billed at a flat rate of one hundred ten dollars (\$110.00) per game per officer. Indoor sports are to be billed at a flat rate of eighty dollars (\$80.00) per game per officer. No cancellation fee will be charged for school-related functions. Police Officers shall receive time and one-half pay on the holidays recognized in the contract with the Rumson Patrolmen's Benevolent Association (the Association). Special Police Officers shall receive time and one-half pay on the holidays established by the Borough of Rumson.
- (2) Any traffic control services in town will be billed at a rate of forty-eight dollars (\$48.00) per hour per officer. The minimum charge payable for such services shall be equal to a minimum of four (4) hours for each officer contracted for with the Borough. A cancellation fee equal to such minimum charge per officer shall be due and payable to the Borough where the request for such service is cancelled less than one (1) hour in advance of the scheduled services. Police Officers shall receive time and one-half pay on the holidays recognized in the contract with the Association. Special Police Officers shall receive time and one-half pay on the holidays established by the Borough of Rumson.
- (3) Any functions related to work for 36 Bellevue Avenue will be billed at a rate of Thirty dollars (\$30.00) per hour per officer. A cancellation fee equal to the requested detail charge per officer shall be due and payable to the Borough where the request for such service is cancelled less than twenty-four (24) hours in advance of the scheduled services. Police Officers shall receive time and one-half pay on the holidays recognized in the contract with the Association. Special Police Officers shall receive time and one-half pay on the holidays established by the Borough of Rumson.
- (4) Any functions related to work for Stone Hill Farm, Colts Neck, NJ, will be billed at a rate of Twenty-Seven dollars and Fifty cents (\$27.50) per hour per officer. No cancellation fee will be charged for functions relating to work at Stone Hill Farm. Any police officer scheduled to work one (1) of the six (6) Stone Hill Farm holidays shall receive double-time for every hour worked.
- (5) Any other functions that are determined to be police-related and are to be billed through the Borough will be at a rate of forty dollars (\$40.00) per hour per officer. No cancellation fee will be charged. Police Officers shall receive time and one-half pay on the holidays recognized in the contract with the Association. Special Police Officers shall receive time and one-half pay on the holidays established by the Borough of Rumson.

BE IT FURTHER RESOLVED that the following rates are hereby fixed for the administrative fee for calendar year 2013:

- (1) When hourly rates are stated above, the Borough shall charge the contractor or third party an additional five dollars (\$5.00) per hour per officer in order to cover expenses incurred by the Borough resulting from off-duty employment.
- (2) For school-related sports, the Borough shall charge an additional five dollars (\$5.00) per game per officer to cover the expenses incurred by the Borough resulting from off-duty employment.

BE IT FURTHER RESOLVED that the above rates shall be retroactive to January 1, 2013; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the Chief Financial Officer and Chief of Police.

Resolution seconded by Councilman Shanley and carried upon the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESOLUTION 2013-0129-36 REQUESTING THAT THE NAVESINK AND SHREWSBURY RIVERS AND THE SIDE CHANNELS BE DREDGED:

2013-0129-36

**RESOLUTION REQUESTING THE DREDGING OF THE
SHREWSBURY AND NAVESINK RIVERS AND ADJOINING WATERWAYS
SURROUNDING THE BOROUGH OF RUMSON**

WHEREAS, the Borough of Rumson, in the County of Monmouth, State of New Jersey, is surrounded on three sides by the Navesink River to the north and Shrewsbury River to the east and south; and

WHEREAS, the Navesink and Shrewsbury Rivers and connecting waterways are important waterways for the residents of the Borough of Rumson and the surrounding areas for recreational uses, including boating, hunting and fishing; and

WHEREAS, the Navesink and Shrewsbury Rivers were last dredged in full in 1988 by the Army Corps of Engineers; and

WHEREAS, following the Northeaster of 1992, additional dredging was completed to remove sand in the Navesink River just east of the Oceanic Bridge (Bridge S-31); and

WHEREAS, an attempt of a minor dredging project was made approximately five (5) years ago in the same area of the Oceanic Bridge but had been terminated ahead of schedule due to weather issues; and

WHEREAS, on October 29th, 2012, Hurricane Sandy struck Monmouth County, New Jersey directly, with record tides and high winds that caused debris fields spread out on land along the shore and at the bottom of the rivers, channels and inlets; and

WHEREAS, it has now been twenty-five (25) years since dredging was completed in the Navesink and Shrewsbury Rivers, boats can no longer navigate some waterways due to the silt buildup, which has been exacerbated further by the flooding and debris fields created by Hurricane Sandy; and

WHEREAS, dredging of all the areas of the Navesink and Shrewsbury Rivers and adjoining waterways is now approximately twelve (12) years overdue in the area;

NOW, THEREFORE, BE IT RESOLVED that the Mayor, Council and citizens of the Borough of Rumson in Monmouth County, New Jersey request dredging be performed in the Navesink and Shrewsbury Rivers and adjoining waterways to allow the public to access the waterways for recreational use; and

BE IT FURTHER RESOLVED that approved dredging sites are available for the dredging; and

BE IT FURTHER RESOLVED that a copy of this Resolution be spread upon the minutes of the January 29, 2013 meeting of the Rumson Borough Council; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to: Monmouth County Engineer Joseph M. Ettore; New Jersey Department of Environmental Protection

Commissioner Bob Martin; Monmouth County Board of Chosen Freeholders Deputy Director Thomas A. Arnone; New Jersey State Senator Joseph M. Kyrillos, Jr.; New Jersey State Assemblywoman Amy H. Handlin; New Jersey State Assemblyman Declan J. O’Scanlon, Jr.; New Jersey Governor Chris Christie; Unites States Senator Frank Lautenberg; United States Senator Robert Menendez; United States Congressman Rush Holt; New Jersey Marine Police; and the United Stated Coast Guard Commander.

The above Resolution was moved for adoption by Councilman Hemphill. Motion seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESERVE APPROPRIATION TRANSFER RESOLUTION 2013-0129-37:

2013-0129-37

Councilman Hemphill offered the following resolution and moved its adoption:

RESOLUTION

WHEREAS, N.J.S.A. 40A:4-59 states should it become necessary during the first three months of the following year to expend for certain purposes specified in the budget an amount in excess of the respective amounts appropriated therefore, and there shall be an excess in one or more appropriations, the Governing Body may, by resolution, adopted by not less than 2/3 vote, transfer the amount of such excess to those appropriations deemed insufficient;

BE IT RESOLVED by the Mayor and Council of the Borough of Rumson that the following transfers between 2012 Reserve Appropriations be and same are herby approved:

To:	Finance Other Expenses	\$	1,500.00
	Police Department Other Expenses	\$	2,500.00
	Police Dispatch Salary and Wages	\$	1,000.00
	Total	\$	5,000.00
From:	Administration and Executive Other Expenses	\$	5,000.00
	Total	\$	5,000.00

BE IT FURTHER RESOLVED that the Borough Chief Financial Officer be and is hereby authorized and directed to debit and credit said accounts for 2012 accordingly.

Resolution seconded by Councilman Rubin and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESOLUTION 2013-0129-38 AUTHORIZING THE CAR ALLOWANCE FOR THE EMS 1ST LIEUTENANT FOR 2012:

2013-0129-38

Councilman Rubin offered the following resolution and moved its adoption:

RESOLUTION

WHEREAS, on December 4, 2012, Resolution 2012-1204-169 was adopted authorizing gasoline allowances to various officials of the Borough of Rumson; and

WHEREAS, the First Aid Squad 1st Lieutenant, who uses her personal vehicle, was mistakenly left out of the authorizing resolution; and

WHEREAS, the Borough Council has determined the 2012 gasoline allowance of \$750.00 be paid to the First Aid Squad 1st Lieutenant;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rumson that the 2012 gasoline allowance of \$750.00 be paid to the First Aid Squad 1st Lieutenant; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Borough Chief Financial Officer.

Resolution seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

RESOLUTION 2013-0129-39 AUTHORIZING THE REFUND OF UNUSED ESCROW BALANCE ON A LAND USE BOARD APPLICATION THAT WAS WITHDRAWN FOR 112A AVENUE OF TWO RIVERS:

2013-0129-39

Councilman Rubin offered the following resolution and moved its adoption:

RESOLUTION

WHEREAS, Kevin E. Kennedy, Esq. has confirmed withdrawal of a Land Use Board Application for 112A Avenue of Two Rivers, Block 99, Lot 18; and

WHEREAS, Mr. Kennedy has also requested the return of any unused escrow monies to his client, Gottago Enterprise, LLC; and

WHEREAS, Helen L. Graves, Chief Financial Officer, has confirmed with the Borough Engineer that all invoices for this application have been paid and therefore recommends a refund of the escrow balance of \$2,102.50;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Rumson hereby approves the release of the balance of the escrow fee in the amount of \$2,102.50, which was posted for 112A Avenue of Two Rivers, Block 99, Lot 18, to Gottago Enterprise LLC, % Kevin E. Kennedy, Esq., 165 Highway 35, Red Bank, NJ 07701; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Chief Financial Officer.

Resolution seconded by Councilman Hemphill and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

FINANCIAL OFFICER'S REPORT;

The Financial Officer's Reports disclosed the following as of December 29, 2012:

Borough of Rumson
Chief Financial Officer Report to the Mayor and Council

Analysis of Cash for the Month Ending:

December 31, 2012

Funds	Beginning Balance	Cash Receipts	Disbursements	Ending Balance
1. CURRENT FUND				
Current Fund Checking	\$15,703,203.04	\$6,862,988.34	\$(1,998,547.96)	\$20,567,643.42
Change Funds	\$ 300.00	\$ □	\$ □	\$ 300.00
Certificates of Deposit	\$ 0.00	\$ □	\$ □	\$ □
Total Current Fund	\$15,703,503.04	\$6,862,988.34	\$(1,998,547.96)	\$20,567,943.42
2. CAPITAL FUND				
Capital Fund Checking	\$ 1,237,810.12	\$ 547,959.18	\$ (765,324.50)	\$ 1,020,444.80
2007 Capital Improvement Bond Proceeds	\$ 968,198.34	\$ 0.00	\$ 0.00	\$ 968,198.34
Total Capital Fund	\$ 2,206,008.46	\$ 547,959.18	\$ (765,324.50)	\$ 1,988,643.14
3. PAYROLL & PAYROLL AGENCY				
Payroll	\$ 2,981.86	\$ 328,032.63	\$ (328,032.63)	\$ 2,981.86
Payroll Agency	\$ 13,240.66	\$ 185,034.16	\$ (185,034.16)	\$ 13,240.66
Total Payroll & Payroll Agency	\$ 16,222.52	\$ 513,066.79	\$ (513,066.79)	\$ 16,222.52
4. TRUST FUNDS				
Trust Fund Checking	\$ 698,989.97	\$ 8,549.90	\$ (2,218.00)	\$ 705,321.87
Unemployment Trust	\$ 112,384.63	\$ 76.18	\$ 0.00	\$ 112,460.81
Recreation Trust	\$ 224,405.17	\$ 11,018.00	\$ (19,262.61)	\$ 216,160.56
C.O.A.H. Trust	\$ 1,559,069.67	\$ 30,048.89	\$ (120.90)	\$ 1,588,997.66
Law Enforcement Trust Fund	\$ 425.42	\$ 0.06	\$ 0.00	\$ 425.48
D.A.R.E.	\$ 7,856.96	\$ 1.00	\$ 0.00	\$ 7,857.96
Cafeteria Plan	\$ 1,880.93	\$ 0.00	\$ (353.12)	\$ 1,527.81
Animal Control Trust Fund	\$ 33,292.00	\$ 0.00	\$ (775.86)	\$ 32,516.14
Public Assistance Trust Fund	\$ 839.35	\$ 0.00	\$ 0.00	\$ 839.35
Total Trust Funds	\$ 2,639,144.10	\$ 49,694.03	\$ (22,730.49)	\$ 2,666,107.64
TOTAL ALL FUNDS	\$20,564,878.12	\$7,973,708.34	\$(3,299,669.74)	\$ 25,238,916.72

Respectfully submitted by:

Helen L. Graves

Helen L. Graves, Chief Financial Officer

On motion by Councilman Hemphill, seconded by Councilman Shanley, the Financial Officer’s Report was ordered received and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

CONSIDERATION OF BILLS AND CLAIMS (RESOLUTION):

Councilman Hemphill offered the following resolution and moved its adoption:

\$	1,060.00	AR Communications
\$	1,060.00	Capital Account
\$	313,080.27	Reussille Law Firm LLC
\$	35.35	New Jersey American Water
\$	69.46	NJ Natural Gas Co
\$	313,185.08	COAH Account
\$	2,372.14	Hess Corporation
\$	1,340.17	61-63 River Rd LLC
\$	850.20	Americanwear Indust Uniforms
\$	178.13	AR Communications
\$	90.00	Asbury Park Press
\$	87.77	Bain’s Hardware Inc
\$	4,745.00	Barnabas Health Corp Care
\$	411.50	Bayshore Fire & Safety LLC
\$	750.00	Jennifer Brennan
\$	123,682.56	Britton Industries Inc

\$	136.00	Certified Speedometer Service
\$	114.34	Comcast of Monmouth
\$	1,340.00	Cross Over Networks
\$	29,904.90	Day Chevrolet Inc
\$	3,723.93	Delta Dental of New Jersey Inc
\$	399.90	East Coast Energy Products
\$	500.00	Emergency Comm Network
\$	54.37	FedEx Techconnect Revenue Serv
\$	312.00	Galls LLC
\$	675.11	WW Grainger Inc
\$	20.00	Jane F Hartman
\$	1,031.80	Hess Corporation
\$	4,698.00	Hights Farm Equipment Co Inc
\$	3,405.00	JA Christman Inc
\$	160.76	Kaldor Emergency Lights LLC
\$	290.00	Kellco Painting Inc
\$	155.20	Kepwell Natural Spring Water
\$	3,250.00	Lawmen Supply Company of NJ
\$	794.10	Level 3 Communications LLC
\$	2,111.72	Major Safety Service Inc
\$	16,151.38	Marpal Disposal
\$	40.00	MCCA of Monmouth County
\$	45.00	MCAA of NJ-R Novelli-Salyer
\$	1,750.00	Middletown Twp Police Dept
\$	1,000.00	Middletown Township Fire Dept
\$	994.50	Modspace
\$	858.00	Treasurer County of Monmouth
\$	150.00	Municipal Clerks Assn Monmouth
\$	1,218.13	Municipal Equipment
\$	116.47	Sigman USA LLC DBA Mytarp.com
\$	462.76	Naylor's Auto Parts
\$	9,739.61	New Jersey American Water
\$	266.40	NJ Emergency Vehicles
\$	619.00	NJ State League of Municipalities
\$	111.34	Northern Safety Co Inc
\$	470.13	Pep Express Parts
\$	4,140.00	Pumping Services Inc
\$	91,062.00	Reliable Wood Products LLC
\$	1,845.41	Reussille Law Firm LLC
\$	6,912.70	Hope H Richardson
\$	82.17	Thomas S Roger
\$	400.00	Rumson Elementary School Dist
\$	230.00	RFH Regional High School
\$	37.00	Ryser's Landscape Supply
\$	61.54	Sanitation Equipment Corp
\$	42.25	Seaboard Welding Supply Inc
\$	500.00	State Shorthand Reporting Serv
\$	503.22	Staples Advantage
\$	507.00	Michael B Steib PA
\$	3,878.79	Targeted Technologies LLC
\$	200.00	Treasurer – State of NJ
\$	2,262.69	Trico Equipment Services LLC
\$	28.21	The Two River Times
\$	22,320.00	Two Rivers Water
\$	60.50	Up-Tite Fasteners Inc
\$	356.34	Verizon
\$	160.04	Verizon Wireless
\$	137.01	Verizon Business Fios
\$	250.00	VNA of Central Jersey
\$	60.00	Wageworks
\$	38.92	George Wall Lincoln
\$	20.48	Warshauer Electric Supply
\$	1,540.00	Weatherworks LLC
\$	4,536.85	Xylem Dewatering Solutions Inc

\$	109,850.00	Jesco Inc
\$	473,600.44	Current Fund
\$	400.00	Siciliano Landscape Co LLC
\$	400.00	Endowment Inc Account
\$	3,238.96	Tami Horan
\$	125.00	Barry Metzger
\$	349.58	Rumson Exxon
\$	545.00	Rutgers/Youth Sports Council
\$	4,258.54	Recreation Account
\$	49,994.36	61-63 River Rd LLC
\$	2,102.50	Gottago Enterprise LLC
\$	247.00	Michael B Steib PA
\$	52,343.86	Trust Account
\$	5,503.54	NJ Department of Labor
\$	5,503.54	Unemployment Account
\$	424,556.47	Current Fund Appropriations
\$	49,043.97	Current Fund Appropriations
\$	1,060.00	Capital Fund Disbursements
\$	400.00	Endowment Disbursements
\$	4,258.54	Recreation Disbursements
\$	365,528.94	Trust Fund – Other Expenses
\$	5,503.54	Unemployment Disbursements
\$	850,351.46	Total Of All Funds

Resolution seconded by Councilman Day and carried on the following roll call vote:

In the affirmative: Day, Hemphill, Rubin and Shanley.

In the negative: None.

Absent: Broderick and DeVoe.

COMMENTS FROM THE COUNCIL:

The Mayor afforded the members of the Council an opportunity to be heard at this time and no one responded.

COMMENTS FROM THE PUBLIC:

The Mayor afforded the public an opportunity to be heard at this time and the following resident responded:

Richard Jones of 37 Navesink Avenue asked why the 2013 schedule on the Borough Website had not been updated.

Councilman Day stated that we were still backlogged with work resulting from Hurricane Sandy and that he would update the Website as soon as possible.

ADJOURNMENT:

On motion by Councilman Rubin, seconded by Councilman Shanley, the meeting adjourned at 7:38 p.m. All in favor.

Respectfully submitted,

Thomas S. Rogers, R.M.C.
Municipal Clerk/Administrator